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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,076	06/27/2003	Frank Yang	PAT-1434CIP	7455

7590

11/03/2006

Raymond Sun  
12420 Woodhall Way  
Tustin, CA 92782

EXAMINER
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ELOSHWAY, NIKI MARINA

ART UNIT	PAPER NUMBER
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3781

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/609,076

Applicant(s)

YANG ET AL.

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-17, 19-23 and 43-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-17, 19-23, 43-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 8, 2006 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 13, 15, 17 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Culbertson (U.S. 4,913,308) and Hirshman (U.S. 1,893,743). Samson et al. teaches a trash can assembly 10 having a shell 12 with four side walls 14, 16, 18 and 20, and top edges at 26. The frame is element 92 and a hinged lid is shown at 28. Samson et al. does not teach that the first and third side walls are longer than the second and fourth side walls, or that there are two lid portions. Culbertson teaches that it is known to have a shell with four side walls (see figure 1) wherein two side walls are longer than the remaining two. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the trash can assembly of Samson et al. with the shell having a rectangular cross section, as taught by Culbertson, in order to enlarge the cavity of the shell, and give it a more conventional shape.

Hirshman teaches that it is known to provide a trash container with either a single hinged lid or a double hinged lid (see figures 1 and 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Samson et al. with a second hinged lid, as taught by Hirshman, in order to allow the user to access a portion of the cavity without exposing the entire opening.

4. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Culbertson (U.S. 4,913,308) and Hirshman (U.S. 1,893,743), as applied to claims 13 and 15 above, and further in view of Pfiefer et al. (U.S. 6,626,317). The modified assembly of Samson et al. discloses the claimed invention except for the lid being made of a different material. Pfiefer et al. teaches that it is known to provide a trash assembly with a metal lid (see col. 3 lines 46-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Samson et al. with the lid portions being made of metal, as taught by Pfiefer et al., in order to give the assembly a more decorative appearance.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Culbertson (U.S. 4,913,308) and Hirshman (U.S. 1,893,743), as applied to claim 13 above, and further in view of Gora (U.S. 4,663,803). The modified assembly of Samson et al. discloses the claimed invention except for the slot and sleeve hinge arrangement. Gora teaches that it is known to provide an assembly wherein the hinge has a slot and sleeve arrangement (see figures 4, 5, 7 and 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Samson et al. with the hinge arrangement of Gora, in order to provide a secure yet removable connection between the frame and the lid portions.

6. Claims 20, 22, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Gora (U.S. 4,663,803). The assembly of Samson et al. discloses the claimed invention except for the slot and sleeve hinge arrangement. Gora teaches that it is known to provide an

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assembly wherein the hinge has a slot and sleeve arrangement (see figures 4, 5, 7 and 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Samson et al. with the hinge arrangement of Gora, in order to provide a secure yet removable connection between the frame and the lid portions.

7. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Gora (U.S. 4,663,803), as applied to claims 20 and 22 above, and further in view of Pfiefer et al. (U.S. 6,626,317). The modified assembly of Samson et al. discloses the claimed invention except for the lid being made of a different material. Pfiefer et al. teaches that it is known to provide a trash assembly with a metal lid (see col. 3 lines 46-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Samson et al. with the lid portions being made of metal, as taught by Pfiefer et al., in order to give the assembly a more decorative appearance.

8. Claims 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knapp (U.S. 2,946,474) in view of Culbertson (U.S. 4,913,308), Hirshman (U.S. 1,893,743) and Wang (U.S. 6,010,024). Knapp teaches a trash can assembly having a shell 10, a base located below element 28, a hinged lid is shown at 18 and a toe kick recess housing element 22. Knapp does not teach that the rectangular shape wherein the first and third side walls are longer than the second and fourth side walls, the second lid portion, or the base being of a different material. Culbertson teaches that it is known to have a shell with four side walls (see figure 1) wherein two side walls are longer than the remaining two. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the trash can assembly of Knapp with the shell having a rectangular cross section, as taught by Culbertson, in order to enlarge the cavity of the shell.

Hirshman teaches that it is known to provide a trash container with either a single hinged lid or a double hinged lid (see figures 1 and 3). It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to provide the modified assembly of Knapp with a second hinged lid, as taught by Hirshman, in order to allow the user to access a portion of the cavity without exposing the entire opening.

Wang teaches that it is known to provide a trash container with a base of a different material (see figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Knapp with the base being plastic, as taught by Wang, in order to better resist corrosion due to leakage from the container cavity.

Regarding claim 47, Wang also teaches that it is known to provide a trash container with a dampening mechanism (see element 917). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Knapp with a dampening mechanism, as taught by Wang, in order to better control the movement of the lid.

### ***Response to Arguments***

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

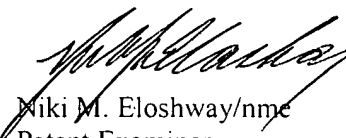
### ***Conclusion***

10. THIS ACTION IS MADE NON-FINAL.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Thursdays and Fridays 8 a.m. to 4 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Niki M. Eloshway/nme  
Patent Examiner  
October 27, 2006